

14

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

OLIVER BROWN, et al.,	Plaintiffs,)	
)	
and)	
)	
CHARLES and KIMBERLY SMITH, minor)	
children, by their mother and next)	
friend, LINDA BROWN SMITH, et al.,)	No. T-316
	Intervening)	
	Plaintiffs,)	
)	
vs.)	
)	
BOARD OF EDUCATION OF TOPEKA,)	
SHAWNEE COUNTY, KANSAS,)	
et al.,)	
	Defendants.)	
)	

ANSWER OF UNIFIED SCHOOL DISTRICT NO. 501
TO PLAINTIFF-INTERVENORS' INTERROGATORY NOS. 21 & 23

21. Since the [1950-51] school year, state whether the school district or its predecessor has ever had a policy or practice with respect to separation or assignment of students on the basis of race, color or national origin. If the answer is in the affirmative, state:

- a. Date the policy was adopted.
- b. The period of time the policy was or has been in effect.
- c. Description of the policy.
- d. For each year the policy was in effect, state the name of the schools that Black and other minority students were assigned pursuant to the policy.
- e. Description of the attendance zone for each school stated in 21(b) if not previously described. Accompany a map with a demarcation of this description.

ANSWER:

Although School District records do not indicate such a policy, the Topeka School District No. 23, Shawnee County, Kansas, did have a practice of providing separate education to children in the elementary grades in accordance with Kansas

statutes during the 1950-51 school year and thereafter until September, 1953, the date the School District adopted a policy to terminate the maintenance of segregation in the schools. School board minutes dated September 3, 1953, reflect that the Topeka Board of Education adopted the following policy concerning segregation on that date:

"Be it resolved that it is the policy of the Topeka Board of Education to terminate the maintenance of segregation in the elementary grades as rapidly as is practicable."

For each year that elementary students were assigned to schools on the basis of race, Black students attended one of the following schools: Buchanan, located at 12th & Buchanan; McKinley, located at 915 North Western; Monroe, located at 15th & Monroe; and Washington, located at 1021 Washington Street. It does not appear that there were any definite boundaries for these schools, although it seems to be an assumption that Black elementary school children in North Topeka (north of the Kansas River) attended McKinley School, children in the south and central Topeka area attended Buchanan School, and children in east Topeka attended either Monroe or Washington School.

Set forth below in answer to Interrogatory No. 23 are the four steps or phases adopted by the School District to bring about systematic termination of racial segregation in the public schools of Topeka, the last step being implemented in September of 1956.

23. State whether any desegregation plans have been proposed for the present school district from the 1953-54 school year to the present. If the answer is in the affirmative, state for each plan:

- a. Detailed description of the plan.
- b. The year it was proposed.
- c. By whom it was proposed.
- d. The extent to which it was ever implemented.
- e. The year it was implemented.
- f. Whether and how it was modified.

g. Whether it was only proposed but never implemented.

ANSWER:

The four steps adopted by Board of Education for the Topeka Public Schools determination of segregation in Topeka elementary schools is attached hereto and consists of excerpts from the official minutes of the Board. These excerpts from Board minutes indicate the date on which each recommendation was made, by whom it was proposed and the date of adoption of each step. Step 1 was implemented in September, 1953; Step 2 in September, 1954; Step 3 in September, 1955; and Step 4 in September, 1956. These steps were not modified but they were fully implemented.

The answers to Interrogatory Nos. 21 and 23 were prepared under the direction of W. Wayne Warner, Assistant Superintendent for Business Services, Unified School District No. 501.

V E R I F I C A T I O N

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

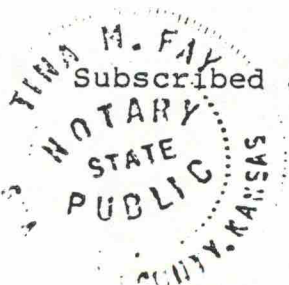
The undersigned, of lawful age, being first duly sworn upon his oath, deposes and states:

That he is Assistant Superintendent for Business Services for Unified School District No. 501, that he has read the answer to Interrogatory Nos. 21 & 23 of Intervening Plaintiffs' Interrogatories--First Set which was prepared under his general direction and supervision and such answer is true and correct to the best of his knowledge and belief.

Further affiant saith not.

W. Wayne Warner
W. Wayne Warner

Subscribed and sworn to before me this 4 day of May, 1981.



Tina M. Fay
Notary Public

my appointment expires:
4-24-83.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing ANSWER OF UNIFIED SCHOOL DISTRICT NO. 501 TO PLAINTIFF-INTERVENORS' INTERROGATORY NOS. 21 & 23 was served by hand delivering the same this 6th day of May, 1981, to attorneys for Intervening Plaintiffs by serving Richard Jones, Jones & Jones, 724 1/2 Kansas Avenue, Topeka, Kansas 66603.



K. Gary Sebelius
of Eidson, Lewis, Porter & Haynes
1300 Merchants National Bank Bldg.
Topeka, Kansas 66612
(913) 233-2332

Attorneys for Unified
School District No. 501

EXCERPTS FROM TOPEKA BOARD OF EDUCATION MINUTES:

September 8, 1953 -- Presentation and Adoption of First Step

In making recommendations of the Board concerning the first steps to be taken in terminating segregation, Mr. Godwin emphasized the importance of these steps:

- 1) That the termination of segregation should be done in a gradual and orderly manner.
- 2) That in his judgement it is a social impossibility to terminate segregation suddenly.
- 3) That speed with which segregation is terminated depends largely on the forbearance and self-discipline of both the white and colored people.
- 4) That it is not possible to set an accurate time in which segregation is terminated completely.

Mr. Godwin recommended that as a first step segregation be terminated in the Southwest and Randolph School districts this year, and that Negro children living in these districts be permitted to continue attendance at Buchanan school if they desired, but that transportation to Buchanan would not be supplied . He announced that this move would affect approximately 15 Negro children.

Dr. Conrad moved that segregation be terminated in the Southwest and Randolph Schools, and that Negro children living in these school districts be permitted to continue at Buchanan if they desired, but that transportation to Buchanan school be discontinued. Second. Dr. Greer. Yea: Unanimous.

January 20, 1954 -- Presentation and Adoption of Second Step

Mr. Godwin made the following recommendation as to the second step to be taken in the termination of segregation in the elementary schools, effective September, 1954:

SECOND STEP IN TERMINATION OF SEGREGATION
IN TOPEKA ELEMENTARY SCHOOLS

- I. In implementation of the Board's policy to terminate segregation in elementary schools as soon as practicable, I propose that the second step be taken at the opening of school in September, 1954. The step should be acted upon by the Board at this time in order to enable everybody concerned to make necessary plans for next year.

January 20, 1954 (Continued)

- II. In the second step, I propose that segregation be terminated in the following school districts and that transportation not be provided for Negro children who are affected, but that such child be given the privilege of attending the nearest Negro school if his parents want him to do so. (All pupil accounting is based on the number belonging in October 16, 1953.)

	Negro Children to Integrated Schools	Negro Children to Come from following Schools			
		McKinley	Buchanan	Monroe	Washington
1. Central Park	21		16	5	
2. Clay	13		12	1	
3. Crestview	0				
4. Gage	1				
5. Grant (Limited)*	3	3	1		
6. Oakland	0				
7. Polk (Limited)**	3			3	
8. Potwin	0				
9. Quincy	34	34			
10. Quinton Heights	10		5	5	
11. State Street	21			9	12
12. Sumner	7	1	5	1	
	113	38	39	24	12
Randolph	2				
Southwest	8				
	123				

*The limitation suggested at Grant is that three Negro children isolated in the extreme northern part of Grant School district be permitted to attend Grant, while the remainder of the Negro children continue at McKinley.

**The limitation suggested at Polk School is as follows: Several Negro children in this district live very close to Buchanan School. They should continue at this school. There would not be room for them at Polk and there is plenty of room at Buchanan. However, there are three Negro children now attending Monroe school but residing in the Polk district. I suggest that they be allowed to attend Polk School.

January 20, 1954 (Continued)

III. The effects of taking this step would be as follows:

1. It would reduce the enrollments of Negro Schools as indicated.

	<u>From</u>	<u>To</u>
McKinley	127	89
Buchanan	160	121
Monroe	245	221
Washington	292	280
	<u>824</u>	<u>711</u>

2. It would place 123 Negro children in integrated schools.

3. It would leave, in addition to the four schools for Negro children, 12 schools integrated, 2 schools (Grant and Polk) on a basis of partial integration, and 5 schools continuing on a segregated basis (Lafayette, Lincoln, Lowman Hill, Parkdale and Van Buren).

Dr. Conrad moved that the Board accept the recommendation of the Superintendent, and make it the policy of the Board for the ensuing year. Second: Mrs. Shiner. Yea: Unanimous.

February 7, 1955 -- Presentation and Adoption of Third Step

Mr. Godwin made a report to the Board recommending the Third Step in Terminating Segregation in the Public Schools of Topeka, and requested that action be taken by the Board at an early date (probably February 23).

- I. In implementation of the Board's policy to terminate segregation in the elementary schools as soon as practicable, I propose that the Third Step be taken at the opening of school in September, 1955. Action should be taken by the Board at an early date (Probably on February 23), in order to enable everybody concerned to make necessary plans for next year.
- II. In the Third Step I propose the following elements:
 - (a) That segregation be terminated in all remaining buildings.

February 7, 1955 (Continued)

- (b) That McKinley Elementary School be closed, and placed on a stand-by basis for the coming year.
- (c) That Buchanan, Monroe, and Washington Schools be assigned to districts within the general framework of elementary school districts according to maps presented herewith.
- (d) That any child who is affected by the changes in district lines as herein recommended, be given the option of finishing elementary grades in the school which he attended in 1954-55, McKinley excepted.
- (e) That entering kindergarten children in 1955-56, who are affected by the change in school boundaries as herein recommended, be given the option of attending the same school in 1955-56 that they would have attended in 1954-55 if they had been old enough to enter.
- (f) That no transportation be provided in 1955-56 or thereafter.

III. The estimated number of students who would transfer if these recommendations are adopted by the Board is indicated, and is based on the assumption that one-third of the children attending Washington, Monroe, and Buchanan, who would be given the choice of transferring to a new school or remaining in their present ones, will choose to remain in their present schools.

<u>Receiving Schools</u>	<u>No.</u>	<u>Negro Children</u> <u>to come from the following schools</u>			
		<u>McKinley</u>	<u>Buchanan</u>	<u>Monroe</u>	<u>Washington</u>
Grant	58	58			
Lafayette	30			13	17
Lincoln	61			40	21
Lowman Hill	36		36		
Parkdale	41			5	36
Van Buren	40			40	
Total	266	58	36	98	74

IV. The following is an estimate of the number of students in 1955-56 that will be in the affected schools, and the grades in which they will be enrolled.

<u>School</u>	<u>Kg.</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>	<u>6th</u>	<u>Spec.</u>	<u>Est. Total</u>	<u>Actual 10-15-54</u>
Grant	58	58	70	54	52	53	36	12	393	311
Lafayette	56	56	57	50	63	42	39		363	323
Lincoln	99	97	91	88	65	54	48	16	558	456

con't next page

February 7, 1955 (Continued)

<u>School</u>	<u>Kg.</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>	<u>6th</u>	<u>Spec.</u>	<u>Est. Total</u>	<u>Actual 10-15-54</u>
Lowman Hill	62	62	38	42	48	37	40		329	275
Parkdale	51	52	40	43	50	28	37		301	243
Van Buren	42	41	46	45	34	30	34		272	220
Buchanan	20	20	19	15	17	10	9		110	136
Monroe	27	28	30	23	23	19	16	15	181	256
McKinley	0	0	0	0	0	0	0	0	0	68
Washington	32	33	35	28	28	24	18		198	262
	447	447	426	388	380	297	277	43	2705	2550

V. All estimates of enrollments herein contained are based upon the members belonging on October 15, 1954, upon the assumption that the 1955 kindergartens will be the same as the 1954 kindergartens, that the children belonging on October 15, 1954 will advance by one grade in September, 1955, and that the numbers moving in and out of the districts will balance.

February 23, 1955 -- Adoption of Third Step

Mr. Dickinson moved that the Board approve the Third Step in terminating segregation in the Public Schools of Topeka, as outlined in the following recommendation made by Mr. Godwin. Second: Mr. Oberhelman. Yea: Unanimous (See February 7, 1955)

December 21, 1955 -- Presentation and Adoption of Fourth Step

Mr. Godwin, Superintendent, presented and read Step IV in the gradual and systematic termination of racial segregation in the Public Schools of Topeka.

STEP IV IN THE GRADUAL AND SYSTEMATIC TERMINATION OF RACIAL SEGREGATION IN THE PUBLIC SCHOOLS OF TOPEKA:

cont'd next page

December 21, 1955 (Continued)

I. Review

The policy of the Board to "terminate the maintenance of segregation in the elementary grades as rapidly as practicable" was adopted at the meeting on September 3, 1953.

Step I was adopted September 8, 1953 to become effective immediately. It abolished segregation in two elementary school districts; namely, Randolph and Southwest, but gave Negro children the option of continuing in their former schools.

Step II was adopted January 20, 1954 to become effective on September 1, 1954. It abolished racial segregation in 10 additional elementary schools on a complete basis, and 2 on a partial basis, but gave the Negro children the option of continuing in their former schools.

Step III was adopted on February 7, 1955 to become effective on September 1, 1955. It was the longest and most significant step yet taken. It terminated segregation in all the remaining elementary schools and created attendance districts for the three schools which had previously operated as segregated schools for Negro children. This step also contained optional features, but the options in this step applied to white as well as to Negro children. These optional features were challenged in the United States District Court on September 15, 1955 by attorneys for the National Association for the Advancement of Colored People. The Court upheld the over-all plan then under consideration which included Steps I, II, & III. The opinion, however, is critical of the temporary option contained in Step III, pertaining to kindergarten children entering school in 1955-56. The Court retained jurisdiction of the cause for the purpose of entering the final decree at such time as the Court feels there has been full compliance with the mandate of the Supreme Court.

II. Recommendation

I recommend that Step IV become effective on September 1, 1956 in compliance with the mandate of the Supreme Court and order of the U.S. District Court. In order to be in compliance, it is clear that Step IV must include the following elements:

- (a) That the expiring "option e" in Step III which permitted entering kindergarten children in 1955-56 who were affected by the change in school boundaries outlined in Step III, to exercise the option of attending the school located in the district in which they resided or to attend the school which they would have attended in 1954-55 if they had been old enough to enter, be allowed to expire. This means that the kindergarten children who exercised that option in 1955-56 would not have the option to exercise in 1956-57 or thereafter. (Nine Negro kindergarten children who exercised the option in September 1955 to enter schools which were formerly segregated for Negro children only, would not

cont'd next page

December 21, 1955

be permitted to attend the school of their present attendance in September 1956, unless they should move into the proper attendance district. Eleven white children who exercised the option in September 1955 to enter schools which were formerly segregated for white children only, would not be permitted to attend the school of their present attendance in September 1956, unless they should move into the proper attendance district.)

- (b) That all children moving into any Topeka elementary school district which is not designated as an optional district between two or more elementary schools (or having moved into such district on or after June 1, 1955) be required to attend the elementary school of the district in which they reside, subject only to be traditional exceptions that have prevailed in Topeka for many years. The traditional exceptions are as follows:
1. A kindergarten or first grade child whose parents reside in Topeka and are both employed, may be granted permission to attend the kindergarten or first grade located in the district in which the adult who cares for the child during the day resides.
 2. A child whose parents move into a different elementary school attendance district during the school year, may finish the year in the school he has been attending.
 3. A child who has finished the fifth grade in an elementary school, and whose parents move into a different Topeka school attendance district may attend the sixth grade of the school he attended in the fifth grade.
 4. A crippled child may be given permission to attend an elementary school which is suitable in view of the nature of his handicap.
 5. Pupils who are eligible for any phase of our special educational program which is not housed in the school district in which they reside may be asked to attend the school which does house that particular part of our program which meets the needs of those particular individuals.

Note: This recommendation leaves unchanged the "option d" of Step III which went into effect September 1, 1955. That option is as follows"

- (d) "That any child who is affected by the changes in district lines as herein recommended, be given the option of finishing elementary grades in the school which he attended in 1954-55, McKinley excepted."

cont'd on next page

December 21, 1955 (Continued)

This, too, like "option e" referred to earlier, is an expiring option. Sixty-two Negro children and seventy-eight white children exercised this option in September, 1955. As they gradually move through the schools they are now attending, the option will pass out of existence. This is considered to be an orderly procedure in terminating the practice of segregation.

III. I suggest that action on this recommendation be delayed by the Board until January 18, 1956 in order to hear any suggestions that may be presented by people of the community.

There was considerable discussion following the reading of this recommendation by the Superintendent. Both Mr. Burnette and Mr. Scott wanted to go on record as being opposed to the optional features; Mr. Burnette was of the opinion that it was detrimental to pupils and teachers to prolong complete integration; he felt the Board was creating a feeling of insecurity, especially to teachers in Buchanan, Monroe and Washington schools. Mr. Burnette asked if the Board contemplated another step in desegregation and Mr. Godwin replied that this step (IV) brings Topeka into full compliance with the law and further stated that no child in Topeka is denied permission to enter any school.

Dr. Greer stated that action would not be taken on this until the meeting to be held January 18, 1956.

January 18, 1956 -- Adoption of Fourth Step

Dr. Greer stated that the Board would now consider action on Step IV in the gradual and systematic termination of racial segregation in the public schools of Topeka.

Mr. Burnette, President of the N.A.A.C.P., stated that first of all he would like to set the matter straight regarding Court action of September 15, 1955, and also previous Court action by the N.A.A.C.P. had not taken matters into Court until all other remedies were exhausted and the Courts were the last resort. He mentioned his first appearance, asking for integration of negro children, on April 23, 1948, and of the many times since then that he had appeared before the Board on this subject.

As they were aware, he had been opposed to Step III containing the option clause and he was not in favor of Step IV, (he did not agree with the long drawn out method of integration as shown in Step IV). By taking definite action on Step IV, it would take seven long years to terminate racial segregation. Mr. Burnette made a very strong appeal for racial segregation to end immediately; he said this has been done in other communities and he believed it could be done in Topeka without opposition from the public.

January 18, 1956 (Continued)

Mr. Burnette stated that at a recent meeting mention had been made that approximately 100 teachers would be needed next year, but nothing has been said about the integration of the negro teachers. He said that the negro teacher had been completely left out of desegregation.

After reading excerpts from various publications on this subject, Mr. Burnette again pleaded that the negro teacher be integrated along with the other teachers and children in the Topeka schools.

There was no discussion following the comments by Mr. Burnette, and Mrs. Shiner moved that Step IV in the gradual and systematic termination of racial segregation, as recommended by the Superintendent, and in compliance with the mandate of the U.S. Supreme Court and the U.S. District Court, be adopted.
Second: Mr. Schendel. Yea: Unanimous.

(Refer to December 21, 1955 minutes for copy of Step IV)